

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:08-cr-057

-vs-

Chief Magistrate Judge Michael R. Merz

:

LARRY L. RIFFLE,

Defendant.

DECISION AND ORDER

This case is before the Court on Defendant's Motion to Set Aside Sentence Imposed September 3, 2008, and for Stay of Execution (Doc. No. 11).

Defendant cites no authority for the Court to take the action he requests. Defendant's only citation is to 18 U.S.C. § 3553(a), which sets forth factors to be considered in imposing a sentence.

The sentence here was imposed on September 3, 2008, and that sentence was embodied in a Judgment and Commitment Order signed by the Court on September 6, 2008, and docketed on September 8, 2008 (Doc. No. 9). Defendant does not suggest that the Judgment does not correctly embody the sentence pronounced in open court. Defendant also does not suggest that the Motion is brought under Fed. R. Crim. P. 35(a) to correct an "arithmetical, technical, or other clear error." Finally, Defendant has not pled a claim for relief which would be cognizable under 28 U.S.C. § 2255.

Accordingly, in the absence of any authority to grant the relief sought, Defendant's Motion is denied without prejudice to its renewal upon citation of authority permitting the Court to act as

Defendant has requested.

September 25, 2008.

s/ **Michael R. Merz**
Chief United States Magistrate Judge